

Thomas Fox, Attorney, Senate Committee for Environment and Public Works  
Lynn Abramson, PhD., Senior Legislative Assistant, Office of Senator Barbara Boxer  
Senate Committee for Environment and Public Works  
410 Dirksen Senate Office Building  
Washington, DC 20510-6175

November 28, 2012

Dear Tom and Lynn,

I am writing to you about the impending Environmental Protection Agency (“EPA”) decision—expected by December 1, 2012—on the proposed County Road 595 in northwest Marquette County.

EPA must determine whether to uphold its original objections to proposed County Road 595 under Section 404 of the Clean Water Act (“CWA”), pursuant to its supervisory authority over Michigan’s delegated wetlands permitting program. Tom may remember that during the August 30, 2011 meeting at EPA Denise Keehner of EPA’s Office of Wetlands, Oceans and Watersheds definitively reiterated EPA’s position and stated that the haul road would not happen.

Thus, this letter is to request, respectfully, that you weigh-in as soon as possible with EPA on its decision. County Road 595 has become a highly political issue due to Rio Tinto’s interest in the road serving its huge new mine, and political lobbying efforts are likely pressuring EPA relentlessly. My hope is that the established legal and scientific objections to the proposed haul road – with its unacceptable impacts on wetlands and other aquatic natural resources – will be maintained by EPA.

As background, Rio Tinto had originally proposed the private Woodland Road for hauling ore between the Eagle site and the Humboldt Mill. After EPA, the Army Corps of Engineers (“Corps”), and the Fish and Wildlife Service (“FWS”) issued negative comments on that plan, Rio withdrew its Section 404 permit application. Subsequently, the Marquette County Road Commission recast the Woodland Road for Rio and proposed County Road 595 as a supposedly multi-use public road.

EPA issued a Federal objection to the state agency’s proposed permit issued on April 23, 2012, in which EPA, the Corps and FWS “concluded that the materials included in the application and accompanying analysis do not demonstrate that the Company’s preferred route is the least environmentally damaging practicable alternative... In addition, the project would lead to significant degradation of aquatic resources, and the proposed wetland and stream mitigation would not fully compensate for the loss of aquatic function and value.” Among numerous others, specific objections were:

- Many of the impacted wetlands have the state’s highest functional scoring range, and many are “vulnerable to extirpation,” with 75% of proposed wetlands impacts affected forested wetland types that are difficult to replace resources.

- The project would also require 8 new stream crossings and 14 replacement crossings; the objection notes concerns with loss of stream functions due to lengths of bridges and culverts and due to changes in hydrology and water quality.
- Significant bird diversity exists along the route and “the large amount of habitat clearing required for the proposed project will have negative impacts on migratory birds.” Several endangered species are located in the area as well.

After requesting a hearing on this Federal objection as allowed by the CWA, Directors of Michigan’s Department of Natural Resources and Department of Environmental Quality have failed to address the Federal agencies’ many critiques, and have even overruled their own field staffs’ recommendations.

This proposed haul road may seem like some little back trail in the middle of nowhere, but in fact it is a significant new roadway through critical wetlands resources and habitats that would enable the industrializing of this rural Great Lakes watershed by international mining interests.

Thank you in advance for your attention to EPA’s decision making. Key documentation/background is attached for your convenience.

Sincerely,

Laura Farwell

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Marquette, MI 49855

Attachments:

NFW’s Comments on proposed County Road 595  
KBIC’s Comments on proposed County Road 595  
EPA’s Objections to proposed County Road 595  
September 7, 2011 letter to Nancy Stoner  
October 13, 2011 letter to Nancy Stoner